

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 13-74(PJS/FLN)

UNITED STATES OF AMERICA,

Plaintiff,

v.

MOTION TO STRIKE

1. MICHAEL ANTHONY SCHLEGEL,
a/k/a Mike Schlegel,
2. BRADLEY MARK COLLIN,
a/k/a Brad Collin,

Defendants.

Comes now the United States by and through its attorneys, B. Todd Jones, United States Attorney, and Tracy L. Perzel and Benjamin F. Langner, Assistant United States Attorneys, and hereby moves this Court for an Order Striking “Anthony” From Michael Schlegel’s Name As Indicted.

Generally, a Court may not amend an indictment, however, this rule does not apply when the change is one of form only. United States v. Mason, et al., 869 F.2d 414417 (8th Cir. 1989) (citing United States v. Sazenski, 833 F.2d 741, 743-44 (8th Cir. 1988)). “Misnomers generally are mistakes of form that may be corrected by amendment of the indictment.” Id. (citations omitted). Such an amendment would only be held impermissible if it prejudiced the defendant. Id. (citing United States v. Burnett, 582 F.2d 436, 438 (8th Cir. 1976); and United States v. Krall, 835 F.2d 711, 715 (8th Cir. 1987)). In Mason, the Eighth Circuit found that striking the wrong middle initial from a



defendant's name as indicted was simply an amendment as to form and in no way prejudiced the defendant. Id.

This case is on all fours with Mason. Inadvertently, the United States listed Schlegel's middle name as "Anthony," like the Mason prosecutors had mistakenly identified the wrong middle initial for Mason. Id. As was the case in Mason, there is no argument – actual and nonfrivolous – that defendant Schlegel is other than the defendant Schlegel indicted by the grand jury. Id. Nor would the striking of "Anthony" in any way "change[] the substance of the indictment." Id. Accordingly, this Court should grant the government's motion to strike "Anthony" from defendant Schlegel's name as indicted.

Respectfully submitted,

B. TODD JONES
United States Attorney



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